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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,672	03/16/2004	Sourabh Satish	SYMAP044	2680
21912 7590 01/08/2008 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014			EXAMINER DEBNATH, SUMAN	
			ART UNIT 2135	PAPER NUMBER
			MAIL DATE 01/08/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/802,672

Applicant(s)

SATISH, SOURABH

Examiner

Suman Debnath

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Claims 1-9, 11-17 are pending in this application.
2. Claims 1 and 14-17 are presently amended.
3. Claims 10, 18-20 are cancelled.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 17 is rejected under 35 U.S.C 101 because claim(s) is directed to non-statutory subject matter.

Regarding claim 17, the "computer readable medium," in accordance with Applicant's specification, is "a computer network wherein program instructions are sent over optical or electronic communication links (Specification, page 4, lines 3-4)." When program instructions are sent over optical or electronic communication links, given a broader interpretation "computer readable medium" is a carrier waves. This subject matter is not limited to that which falls within a statutory category of invention because it is not limited to a process, machine, manufacture, or a composition of matter. Instead, it includes a form of energy. Energy doesn't fall within a statutory category since it is clearly not a series of steps or acts to constitute a process, not a mechanical device or

combination of mechanical devices to constitute a machine, not a tangible physical article or object which is some form of matter to be a product and constitute a manufacture, and not a composition of two or more substances to constitute a composition of matter.

***Continued Examination Under 37 CFR 1.114***

7. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 November 2007 has been entered.

***Claim Rejections - 35 USC § 103***

8. Claims 1-9 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tajalli et al. (Pub. No.: US 2004/0143749 A1) (hereinafter "Tajalli") in view of Li et al. (Patent No.: US 7,143,392 B2) (hereinafter "Li").

9. As to claim 1, Tajalli discloses A method of providing security, comprising:  
accessing a file configured by a process to store operational information  
associated with the process (FIG. 4, [0063], [0064], [0065], [0100]);

determining a first behavior using the operational information, wherein the first behavior is associated with the process ([0066], "...define the permitted behavior of applications running on the agents", see also [0044], [0054], [0109], [0127]);

monitoring the process ([0053], [0063]); comparing a second behavior with the first behavior, wherein the second behavior is attempted by the process [0133], "unacceptable behavior", see also [0044], [0082]); and

performing a predetermined responsive action if the second behavior is different from the first behavior ([0081] –[0082], see also [0133]-[0134]);

wherein the operational information includes a list of one or more resources accessed by the process in the course of a normal and permitted operation ([0020], [0057]); and the file is used by the process in the course of said normal and permitted operation to enable the process to access said resources (FIG. 4, [0063] – [0066], [0134]); Though Tajalli teaches determining the first behavior includes processing files to identify the one or more resources ([0109], [0054]), Tajalli doesn't explicitly disclose parsing the file. However, Li discloses parsing the file (col. 12, lines 30-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Tajalli as taught by Li in order to provide "an improvement in runtime monitoring and characterization for a computer system (Li, col. 3, lines 45-55)."

10. As to claims 16 and 17, these are rejected using the same rationale as for the rejection of claim 1.

11. As to claim 2, Tajalli discloses in an event the second behavior is determined to be different from the first behavior, the second behavior is determined to be disallowed ([0133], "unacceptable behavior", see also [0044], [0081], [0082]).

12. As to claim 3, Tajalli discloses wherein the first behavior is one of a plurality of behaviors determined using the operational information ([0066], "...define the permitted behavior of applications running on the agents", see also [0044], [0051], [0054], [0109], [0127]).

13. As to claim 4, Tajalli discloses wherein the first behavior is one of a plurality of behaviors determined using the operational information ([0066], "...define the permitted behavior of applications running on the agents", see also [0044], [0054], [0109], [0127]), and in the event the second behavior is determined to be different from the plurality of behaviors, the second behavior is determined to be disallowed ([0133], "unacceptable behavior", see also [0044], [0081], [0082]).

14. As to claim 5, Tajalli discloses further comprising determining that the second behavior is disallowed ([0133], "unacceptable behavior", see also [0081], "...as applications request and use resources, looking for requests or uses that depart from the acceptable behavior").

15. As to claim 6, Tajalli discloses further comprising determining that the second behavior is disallowed and performing a predetermined action ([0133], [0106], [0081]).

16. As to claim 7, Tajalli disclose wherein the predetermined action includes preventing the second behavior from succeeding ([0133], [0106], [0081]).

17. As to claim 8, Tajalli discloses wherein the predetermined action includes generating an event associated with the second behavior ([0081], [0082], [0106], "log data").

18. As to claim 9, Tajalli discloses wherein determining the first behavior using the operational information is performed when the process is not operating ([0066], [0082]).

19. As to claim 11, Tajalli doesn't explicitly disclose wherein the operational information is used to improve process initialization time. However, Shah discloses wherein the operational information is used to improve process initialization time. (column 33, lines 10-46, see also column 26, lines 30-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Tajalli as taught by Shah in order to "provide a client-side performance optimization system" (Shah).

20. As to claim 12, Tajalli discloses wherein the operational information is configured on a per user basis ([0205], "The Profiler 1102 can be used by users to generate BCDs 305 for their own custom applications").

21. As to claim 13, Tajalli discloses wherein the operational information includes component access information ([0020], "...each process set has a corresponding behavior control description, and controlling access to system resources by each process ..").

22. As to claims 14 and 15, Tajalli discloses a database (FIG. 4). Tajalli doesn't explicitly disclose includes a prefetch file. However, Shah discloses prefetch file (col. 33, lines 10-46, see also column 26, lines 30-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Tajalli by including a prefetch file as taught by Shah in order to "provide a client-side performance optimization system" (Shah, col. 2, lines 30-36).

23. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the



responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Response to Amendment***

24. Applicant has amended claims 1 and 14-17. See rejection above.

### ***Conclusion***

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suman Debnath whose telephone number is 571 270 1256. The examiner can normally be reached on 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on 571 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

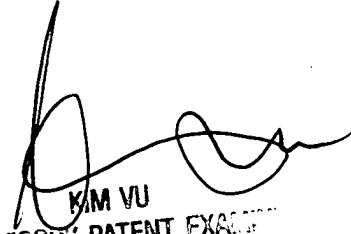
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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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